

Springfield's New E-Verify Ordinance – Frequently Asked Questions

Why is this new ordinance being enacted?

An initiative petition was drafted and circulated for signatures by the Ozarks Minutemen. Once a sufficient number of signatures were obtained (2,101), the initiative was automatically presented to Springfield City Council. City Council had only two options – approve the ordinance as written or send it to a vote of the people as written. City Council was not allowed to modify the language in the initiative petition after the City Clerk certified it. City Council elected to send the ordinance, as written, to a vote of the people, which occurred on February 7, 2012. The ballot measure was approved by an 8,247 to 8,026 vote with a 14.16% voter turnout.

What does the new ordinance require?

The ordinance requires all employers doing business in Springfield to use the federal E-Verify program to screen new hires, and adds penalties - up to and including temporary or permanent business closure - for anyone caught employing someone who is not legally eligible to work for any reason, not just immigration status. While the ordinance also requires screening of existing employees, federal law prohibits the use of E-Verify in that manner.

To whom does this ordinance apply?

The ordinance specifically defines business entities as “any person or group of persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage or livelihood, whether for profit or not for profit.” It also applies to entities possessing a business license or any City permit. In addition, it applies to contractors, meaning any person, employer, subcontractor or entity that enters into an agreement to perform any service or work to provide a certain product, in exchange for valuable consideration. This extends to such services as babysitting, lawn care, or any other service for which an employment agreement of payment is made.

What is E-Verify?

E-Verify is an Internet-based system that allows businesses to determine the eligibility of their employees to work in the United States.

How does an employer use E-Verify?

The U.S. Citizenship and Immigration Services website has full details.

When does the local ordinance go into effect?

The ordinance goes into effect upon City Council certification of election results, Feb. 21, 2012. There will be an enforcement implementation lag needed as City staff produces the required forms and develops resources to assist businesses and individuals with the new E-Verify ordinance compliance process. This educational time frame could be a few weeks. Once that is completed, a news release will be

issued and the law will begin being enforced.

How will the City enforce the ordinance?

Details about how the law will be enforced are still being determined, however, the ordinance is complaint-based, meaning the City will respond to citizen complaints rather than conduct proactive enforcement. Legal language in the ordinance spells out much of that process — requiring, for example, that complaints be in writing and signed by a Springfield resident or a business entity.

How much will the implementation and enforcement of this ordinance cost the City/taxpayers?

While this is still unknown, a preliminary review indicates it may require an additional one or two staff members located in the business license enforcement section of the City Finance Department to respond to complaints and administer the new annual affidavits required of each new entity with a Springfield business license or permit.

In addition, the City of Springfield is legally obligated to defend the voter-approved ordinance. Legal defense fees and court costs from potential lawsuits over the ordinance could be significant based on other cities' experiences, but are unknown for Springfield at this time. If a lawsuit is filed, the City will attempt to defend the ordinance using staff from the City Attorney's Office, although that would likely mean other projects will be put on hold or delayed. It is anticipated the City's "Rainy Day" reserve funds will be used to pay outside attorneys and/or court costs, if needed.

What are City Council's options regarding modification of the ordinance?

Under the City's Charter, nothing can be done with an ordinance for 6 months after the Council certifies the election results. Once the six-month period ends, Council can, only by a unanimous vote, amend or repeal the ordinance.

Why didn't City Council adopt the ordinance and change it, rather than send it to a vote of the people with "flawed" language?

City Council had this option, but City Council voted on Nov. 28, 2011 to send it to a vote of the people.

How can the petition process be changed to avoid putting flawed issues on the ballot in the future?

This would require a modification of the City Charter, which would require a vote of the people to implement. A City Council committee is currently considering various modifications to the City Charter that could be brought forward for a vote of the people soon.